

**REMARKS**

Claims 1-36 are pending in the application.

Claims 1-36 have been rejected.

The status of Claims 37 and 38 had not been addressed in the Office Action.

Claims 1, 12, 19 and 30 have been amended as indicated above.

No new matter has been added.

Reconsideration of the Claims is respectfully requested.

Applicant respectfully submits that the Office Action is not complete as to all matters because dependent claims 37 and 38 are not mentioned by number, and their treatment and status are not given. MPEP 707.07(i) at page 700-129 (Rev. 6, Sept. 2007); *see* 37 CFR 1.104(b). Applicant respectfully requests that such treatment be provided.

**1. Rejection under Section 103**

*Claims 1-2, 5, 7-13, 15-18, 20, 23, 25-31 and 33-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,067,440, to Diefes ("Diefes"), in view of U.S. Patent No. 5,561,456, to Yu ("Yu"), and U.S. Patent No. 6,594,826, to Rao et al. ("Rao").*

*Claims 3, 19 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Diefes, Yu and Rao, further in view of U.S. Patent No. 6,163,272, to Goode ("Goode").*

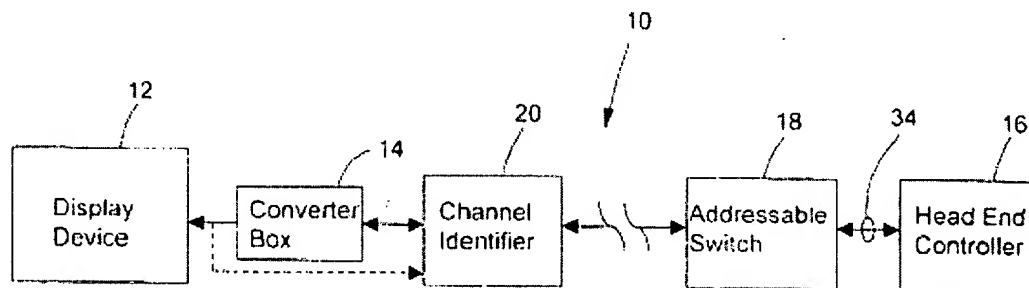
*Claims 4, 14, 22 and 32 were rejected under 35 U.S.C. 103(a) as being unpatentable over Diefes, Yu and Rao, and further in view of U.S. Patent No. 4,890,322, to Russell ("Russell").*

*Claims 6 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Diefes, Yu and Rao, further in view of U.S. Patent No. 7,086,077, to Giammaressi ("Giammaressi").*

Applicant respectfully submits that a *prima facie* showing of obviousness has not been made because the cited references do not provide a suggestion or motivation for their hypothetical combination, nor do the cited references recite each and every element of Applicant's invention as set out in its claims.

*a. the cable TV security system of Diefes does not recite, inter alia, access to a channel of a plurality of dissimilar channels having dissimilar resource demands, whether the system has sufficient resources of a plurality of resources, etc.*

Diefes relates to “detecting the reception of cable channels and determining whether the reception of such channels is authorized.” (Diefes 1:38-41). Figure 1 of Diefes is recited as a “cable services security system . . . :”



**Fig. 1**  
(Diefes)

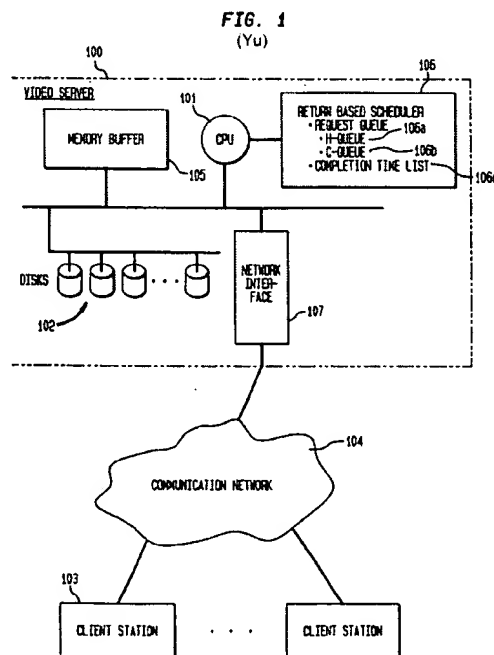
The cable TV security system of Diefes is for “monitoring the delivery of data, such as television station data, . . . to a CATV subscriber for display on a display device 12. The CATV security system 10 detects which channel has been selected for viewing on the display device 12 and determines whether the subscriber is authorized to view the selected channel.” (Diefes 4:20-26). Referring to the addressable switch 18, Diefes recites that for a subscriber to view one of the channels of the broadcast signal, “the address codes within the channel identifier 20 and the addressable switch 18 must correlate. That is, the addressable switch 18 defines all of the channels that a particular customer or subscriber is authorized to view by storing respective channel codes therein.” (Diefes 4:56-61).

The Office Action submits that the “headend controller 16 [of Diefes] configures the appropriate subscriber privilege information, and transmits it to the addressable switch 18, based on this information, the instant requesting subscriber is accepted or denied access to the requested movie or channel.” (Office Action at page 3).

Diefes, however, does not determine whether the client's request is valid for a particular client. For example, as discussed in Applicant's Specification, the determination is made as to whether "the client module is an authentic client module and the service being requested is within the privileges of the particular client module . . . ." (Specification at page 113, lines 21-24). That is, validity is based not simply on channel codes are present on a channel identifier and an addressable switch, such as that recited in Diefes.

***b. the viewer delay tolerance device of Yu recites optimization of limited content, not the allocation of resources to accommodate a client request***

Yu relates to a "video request scheduler and admission control explicitly exploiting viewer delay tolerance to facilitate batching to maximize the return of the [video-on-demand] system." (Yu 1:52-55). In other words, Yao recites a video request scheduler that "[delays] the scheduling of a hot (frequently requested) video for as long as possible within the viewer's tolerance time. This is based on the probability that during the additional delay, some other requests for the same video will arrive." (Yu 2:25-30). Yu, referring to its Figure 1, recites a block diagram of a multimedia server:



(Yu 2:6). Yu imposes a delay to all requests to maximize its profit, not for determining whether its system has sufficient resources of a plurality of resources to fulfill the client requests. Further Yu recites that “if a loss of viewers is inevitable due to the heavy load resulting from a long delay, it is better to lose the cold (less frequently requested) video viewers.” (Yu 2:35-39). In other words, Yu recites optimization of limited content, not the allocation of resources to accommodate a client request.

The Office Action cites Yu for modifying “Diefes with the technology of detecting a streams transmission capability, for the desirable improvement of more efficiently controlling the distribution system, according to the teachings of Yu.” (Office Action at page 4). Diefes, however, is silent with respect to detecting a streams transmission capability.

Yu recites a “scheduler determines if there is any stream capacity available on the server. If there is no capacity available to service the request, the scheduler exits in step 508. At this point the request can not be scheduled until a currently running video completes and its associated stream capacity is freed. If the server has a stream capacity available, the scheduler invokes the video stream scheduling task of FIG. 4.” (Yu 5:62-67 to 6:1-2). That is, Yu does not recite making a determination of sufficient resources, and does not recite allocating at least some of the sufficient resources to fulfill the client request. Further, the scheduler of Yu does not allocate resources, but instead schedules the use of stream capacity.

**c. *the channel bandwidth utilization of Adams does not recite allocation of at least some of the sufficient resources to fulfill client request as set out in Applicant’s claims, but instead delivery rates when presented with a given bandwidth***

Adams “relates to apparatus/methods for insuring full utilization of a communication channel bandwidth when sending information from a cable system’s headend to a plurality of set-top terminals.” (Adams 1:26-30).

The Office Action, referring to Figure 1 of Adams, cites the reference as being “directed to a plurality of different service types.” (Office Action at page 4). Figure 1 of Adams is recited as an “on-demand interactive multimedia communication network, also known as a Full-Service-Network (FSN) . . . :”

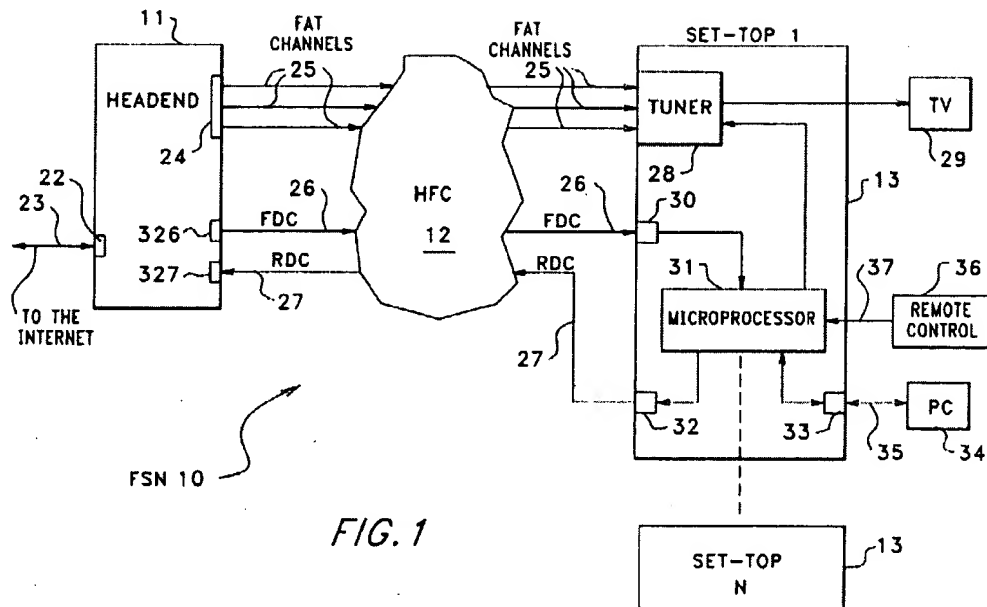


FIG. 1

Adams recites that “[e]ach set-top is at times tuned to the [forward control channel], even while a set-top is receiving data on a [forward-application-transport] channel. A given set-top can transmit only on one [reverse-data-channel]. . . . The [forward control channel] of the following example of the present invention carries eight types of traffic: (1) conditional access message relating to data that is transmitted on the [forward-application-transport] channel; (2) entitlement management messages (EMMs) relative to data that a set-top is entitled to receive; (3) broadcast data; (4) network management services or information; (5) general massaging; (6) application downloading to one or more set-tops; (7) external device data services enabling the Internet to communicate with a PC that is connected to an external Ethernet port of a set-top; and (8) VBR downloading.” (Adams 3:36-67).

Referring to channel bandwidth, Adams recites rate delivery across a given bandwidth, not the allocation of at least some of the sufficient resources, when determined. For example, Adams recites that “[b]andwidth must be allocated in order to provide the best service to the greatest possible number of users. In the traditional analog TV broadcast environment, the bandwidth is divided into multiple 6 MHz channels, with each channel having its own program or application. In the digital environment, one 6 MHz channel can be sliced or divided into multiple transmission pipes, with each pipe carrying a different program or application.” (Adams 2:1-14).

With the static resource, Adams recites that “there are three basic ways to deliver digital data; i.e., Continuous-Bit-Rate (CBR), Variable-Bit-Rate (VBR), and Available-Bit-Rate (ABR). CBR is relatively intolerant to variability in the delay of the output signal, since a delay usually reduces the quality of the transmission to an unacceptable level.” (Adams 2:15-20).

***d. the PIN device of Goode does not recite a multimedia system resource allocation procedure that are determined based on a priority associated with the multimedia system service***

Goode relates to a “method and apparatus for managing personal identification numbers within [a video-on-demand] system.” (Goode 1:11-13). As understood, Goode was cited for Applicant’s claim limitation including “based on control limits by a user of the multimedia system.” (See Independent Claim 19). In Goode, upon “a customer requesting access to the information distribution system, the access authorization routine is executed upon the interactive session manager. . . . [R]equests for services outside of the pre-defined level of services will require a different valid PIN to be entered. As such, children can be restricted to certain content levels such as restrictions based upon the MPAA rating for certain types of movies, restrictions as to adult content, restrictions to viewing at only certain times of day, and the like.” (Goode 2:24-63). Goode does not refer to a multimedia system resource allocation procedure that are determined based on a priority associated with the multimedia system service.

***e. Applicant respectfully submits that any suggestion or motivation for the hypothetical combination of the cited references improperly stems from Applicant’s own Specification***

The Federal Circuit has noted that “an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be ‘an illogical and inappropriate process by which to determine patentability.’” *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998) (citations omitted); see *In re Translogic Technology, Inc.*, 504 F.3d 1249 (Fed Cir. 2007) (post-KSR opinion citing *In re Rouffet* with approval)..

To clarify, the Court submits that to “prevent the use of hindsight based on the invention to defeat patentability of the invention, [the Federal Circuit] requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.” *Id.*

As noted in the discussion above, the cited references do not lend the requisite suggestion or motivation within themselves to the adaptation of the other to achieve Applicant’s invention as set out in its claims. Applicant respectfully submits such motivation or suggestion improperly stems from the knowledge gleaned from its own specification.

***f. Applicant respectfully submits that a prima facie showing of obviousness has not been made***

Applicant’s Independent Claim 1, as amended, recites, *inter alia*, a “method for managing resources in a multimedia system, the method comprises: receiving a client request for a multimedia system service from one of a plurality of clients, *wherein the multimedia system service includes access to a channel of a plurality of dissimilar channels having dissimilar resource demands*; determining whether the *client request is valid* for the one of the plurality of clients *based upon client authenticity and client privileges*; when the client request is valid for the one of the plurality of clients, determining whether the *multimedia system has sufficient resources of a plurality of resources to fulfill the client request*; and allocating at least some of the sufficient resources to fulfill the client request . . . .” (emphasis added).

Applicant’s Independent Claim 12 as amended recites, *inter alia*, a “method for managing resources in a multimedia system, the method comprises: receiving a client request for a multimedia service from one of a plurality of clients, the multimedia service having a service type, *wherein the multimedia system service includes access to at least one of a radio station channel, a television station channel, a satellite channel, a cable channel, Internet access, and intercom communication*; determining whether the client request is valid for the one of the plurality of clients *based upon client authenticity and client privileges*; when the client request is valid for the one of the plurality of clients, determining whether the multimedia system

has sufficient resources of a plurality of resources to fulfill the client request; and allocating best match resources of the sufficient resources to fulfill the client request that are determined based on a priority associated with the multimedia service.” (emphasis added).

Applicant’s Independent Claim 19 as amended recites, *inter alia*, an “apparatus for managing resources in a multimedia system, the apparatus comprises: processing module; and memory operably coupled to the processing module, wherein the memory includes operational instructions that cause the processing module to: receive a client request for a multimedia system service from one of a plurality of clients, *wherein the multimedia system service includes access to at least one of a radio station channel, a television station channel, a satellite channel, a cable channel, Internet access, and intercom communication*; determine *whether the client request is valid* for the one of the plurality of clients, based on *control limits set by a user of the multimedia system and client authenticity*; when the client request is valid for the one of the plurality of clients, *determine whether the multimedia system has sufficient resources* of a plurality of resources to fulfill the client request; and when the multimedia system has the sufficient resources to fulfill the client request, allocate at least some of the sufficient resources to fulfill the client request . . . .” (emphasis added).

Applicant’s Independent Claim 30 as amended recites, *inter alia*, an “An apparatus for managing resources in a multimedia system, the apparatus comprises: processing module; and memory operably coupled to the processing module, wherein the memory includes operational instructions that cause the processing module to: receive a client request for a multimedia service from one of a plurality of clients, the multimedia service *having one of a plurality of service types and provides access to at least one of a radio station channel, a television station channel, a satellite channel, a cable channel, Internet access, and intercom communication*; determine *whether the client request is valid* for the one of the plurality of clients *based upon client authenticity and client privileges*; when the client request is valid for the one of the plurality of clients, determine whether the multimedia system *has sufficient resources of a plurality of resources to fulfill the client request*; and when the multimedia system has the sufficient resources to fulfill the client request, allocate best match resources of the sufficient resources to fulfill the client request . . . .” (emphasis added).



In view of the distinguishing aspects of the claimed invention over the cited references, Applicant respectfully submits that a *prima facie* showing of obviousness has not been established. There is no suggestion or motivation stemming from the cited references for the hypothetical combination of the cable programming access system of Diefes with the viewer delay tolerance device of Yu, and the channel bandwidth utilization of Adams, and further with the PIN management device of Goode, to achieve Applicant's claimed invention.

Applicant also respectfully submits that the cited references do not teach or suggest all of Applicant's claim limitations, as indicated by the emphasized portions set out above.

## 2. Conclusion

As a result of the foregoing, the Applicant respectfully submits that Claims 1-38 in the Application are in condition for allowance, and respectfully requests allowance of such Claims.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Garlick Harrison & Markison Deposit Account No. 50-2126.

Respectfully submitted,

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